

**APPLICANTS:**  
**Joseph & Jeanette Lewellyn**

**REQUEST:** A variance to allow a sunroom  
within the required 40 foot rear yard setback

**HEARING DATE:** August 4, 2004

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**  
**Case No. 5432**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANTS:** Joseph & Jeanette Lewellyn

**LOCATION:** 3200 Wood Spring Drive – Lou Mar Subdivision, Abingdon  
Tax Map: 61 / Grid: 1F / Parcel: 424 / Lot: 15  
First Election District

**ZONING:** R2 / Urban Residential/Conventional with Open Space District

**REQUEST:** A variance pursuant to Section 267-36B, Table V, of the Harford County Code to allow a sunroom within the required 40 foot rear yard setback (proposed setback 33 feet).

#### **TESTIMONY AND EVIDENCE OF RECORD:**

The Applicant, Jeanette Lewellyn, testified that she and her husband were applying for a variance to allow them to construct a sunroom to the rear of their townhouse unit. Their property is an end unit which adjoins to its side community open space. Their unit, as do others in their section, backs up to a Giant supermarket. Mrs. Lewellyn indicated that she and her husband wish to construct a sunroom similar to others in their neighborhood. Because of the size of the sunroom, being a standard size room of 11 feet by 14 feet, they are requesting to impact their 40 foot rear yard setback by 7 feet.

Mrs. Lewellyn noted another request for variance located at 3216 Wood Spring Drive, close to the Applicants' residence, which granted a similar 8 foot variance in April 2004 (see Case No. 5400).

Mrs. Lewellyn indicated that the proposed location was the only possible one for a sunroom, and that it would not harm other neighbors or properties in the neighborhood. The Applicant indicated that her homeowners association had approved the plans, contingent upon the Applicants receiving County approval. The Applicant referred to a letter dated June 14, 2004, marked as Exhibit 2 in the file.

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Next testified Gerard Anderson, a representative of Champion Builders, the builder of the proposed sunroom. Mr. Anderson indicated that out of eighty-four (84) lots in the Applicants' subdivision, all but seventeen (17) lots would be suitable for a similar size sunroom without a variance. The remaining seventeen (17) lots have shallow rear yards so as to require a variance. All of the homes in the Applicants' section would require a variance for the construction of a similar sunroom. These lots all back-up to the Giant supermarket, and all of these lots are too small for a standard size sunroom.

Mr. Anderson described the proposed sunroom. It would have glass walls with a shingled roof. The roof, it's the sunroom's construction and color must conform to that of the existing home, according to homeowner association requirements. While the walls will be glass, there will be an eighteen inch knee wall.

Next for the Applicants testified Suzanne Burke, 2202 Wood Spring Drive, Abingdon, Maryland. Mrs. Burke, who identified herself as a neighbor, has no objection to the proposed use. She does not believe it will have any adverse impact on the neighbors or neighborhood. She indicated that all of the homes in the Applicants section have sliding glass doors to their rear which will all necessitate, eventually, some sort of a patio, addition or sunroom to their rear.

The report of the Harford County Department of Planning and Zoning recommends that the property be found to be unique. The lot backs up to a driveway and parking area for a Giant supermarket. The Applicants' lot sits substantially below the elevation of the Giant supermarket, with the area to the side of the Applicants' lot being active open space and community parking. The Department found there would be no adverse impact if the variance were granted.

There was no testimony or evidence presented in opposition.

### **APPLICABLE LAW:**

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*"Variances.*

*A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

*(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*

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(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicants propose to construct a sunroom which appears to be, and has been described as being, relatively common in both size and appearance. The sunroom itself would be similar to one which had earlier been approved in the Applicants’ neighborhood. The Applicants have obtained approval from their homeowners association for the construction of the sunroom, and none of their neighbors had expressed any opposition. Indeed, one of their neighbors took the trouble of attending the hearing to express her lack of opposition.

The Applicants’ property, and a minority of other lots within their subdivision, have uniquely constrained rear yards as they back-up to the Giant supermarket property, and the parking lots thereon, and are much shallower than other lots in the subdivision. There are only a few lots which would require a variance for the type of improvement proposed by the Applicants.

Clearly, the proposed use would have no adverse impact on any adjoining property. The property to the side of the Applicants is open space and parking area; the property to the rear is the Giant supermarket, used for commercial purposes; the property to the other side of the Applicants is occupied by other neighbors, none of whom expressed any opposition.

It is accordingly found that the property of the Applicants is unique in that it possesses an unusually shallow rear yard, further impacted by the location of the Giant supermarket to its rear and community open space and parking to its side. These unique factors cause the Applicants to seek a variance in order to construct a sunroom typical of others in the neighborhood.

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It is further found that the relief requested, being a 7 foot variance to the 40 foot required rear yard setback, is the minimum adjustment necessary to grant the Applicants the relief sought by them.

**CONCLUSION:**

It is accordingly recommended that the requested variance be granted, subject to the following:

1. The Applicants obtaining all necessary permits and inspections for a sunroom.
2. The sunroom be constructed with materials and colors similar to that of the residence of the Applicants and of others in the subdivision.

Date: August 23, 2004

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner